

OPINION
44-88

March 30, 1944 (OPINION)

SALES TAX

RE: Property Subject to

I have your letter of March 8, in which you inquire whether gross receipt, taken in from bowling and billiards, are subject to the two percent sales tax.

Section 2 of chapter 264 of the 1943 Session Laws, which is the Sales Tax Act, provides among other things: "And a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement and athletic events. . . ." The section above-referred to provides for a two percent tax upon such gross receipts.

A careful reading of the provision above referred to will show that the two percent tax is levied upon the gross receipts from sales of tickets or admissions to such athletic events. If a bowling exhibition is stated, to which admissions are charged, the two percent sales tax is clearly due. The same would be true of a billiard exhibition. However, where persons pay for the privilege of the use of the bowling alley or the use of the billiard table, I do not believe it can be said that such payment is for sale of ticket or admission to a place of amusement. While the question is not free from doubt, it would be my opinion that the gross receipts realized from bowling and billiards, except where such receipts were realized from sales of admissions to exhibitions, would not be subject to the two percent sales tax.

You also inquire whether proceeds collected through a nickelodeon, music, or picture machine would be subject to the sales tax. While the nickel paid for the enjoyment of the pictures shown by such picture machine or the music produced by such music box is not strictly an admission charge, yet the money is paid for the purpose of amusement or entertainment, which is furnished to the person who deposits the nickel. This question is not free from doubt, either, but in my opinion, the proceeds collected through such music box or picture machine would be subject to the sales tax under the statute. The distinction between the picture machine and playing billiards or bowling would be that in the latter, the person, who bowls or plays billiards, would be furnishing his own entertainment, while in the case of a music box or picture machine, he would be entertained and the nickel could be considered as "admission" to such entertainment.

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Attorney General